

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

ORDER NO. 87-19

EAST BAY MUNICIPAL UTILITY DISTRICT  
SPECIAL DISTRICT NO. 1  
WET WEATHER OVERFLOW FACILITIES  
ALAMEDA AND CONTRA COSTA COUNTIES

AN ORDER REQUIRING THE ABOVE DISCHARGER TO CEASE AND DESIST  
DISCHARGING WASTE FROM ITS INTERCEPTOR SYSTEM CONTRARY TO THE  
REQUIREMENTS PRESCRIBED IN ORDER NO. 87-18, AN NPDES PERMIT,  
AND CONTRARY TO THE REQUIREMENTS OF THE SAN FRANCISCO BAY BASIN  
PLAN AND THE PORTER-COLOGNE WATER QUALITY CONTROL ACT

The California Regional Water Quality Control Board, San  
Francisco Bay Region (the Board) finds that:

1. On March 18, 1987, the Board adopted Order No. 87-19 (NPDES Permit No. CA0038440) prescribing requirements for the discharge of waste from the interceptor system owned by East Bay Municipal Utility District, Special District No. 1 (the discharger). This order supersedes and rescinds previously prescribed requirements for this discharge.
2. The discharger currently discharges dilute raw sewage from seven overflow structures that are part of its interceptor system. Discharges occur intermittently as a result of infiltration/inflow to the sanitary sewer system during winter storm events. The seven locations are: Point Isabel, Cerrito Creek, Temescal Creek, Oakland Inner Harbor (Alice Street and Webster Streets), Elmhurst Creek, and San Leandro Creek. During an average winter, overflows occur 10 times and result in a discharge of about 180 million gallons, mostly at the two ends of the interceptor (Point Isabel and San Leandro Bay). The overflows discharge to streams tributary to Central San Francisco Bay or to the Bay shoreline.
3. The existing overflows have high concentrations of coliform bacteria. Receiving water objectives for water-contact recreation and shellfishing are routinely exceeded during wet weather in the vicinity of the overflows, due to both overflows and urban runoff. Significant shellfish beds exist at Point Isabel and along much of the San Leandro Bay shoreline. Water-contact recreation takes place along the entire East Bay shoreline, and is especially prevalent at Point Isabel, the Berkeley and Emeryville marinas, Emeryville Crescent, and San Leandro Bay.

4. The discharger is currently in violation of the following provisions of its NPDES permit, cited above:
  - o Discharge Prohibition 2 (all discharges to receive treatment)
  - o Effluent Limitation 3 (total coliform limitation)
  - o Receiving Water Limitation 1 (discharge shall not cause floating material of sewage origin and other receiving water conditions)
  - o Provision 4 (comply with Standard Provisions, Dec. 1986, which states that discharge shall not cause nuisance, defined in the California Water Code to include any condition which is injurious to health)
5. The discharger is also in violation of the following Basin Plan prohibitions: (a) discharges which do not receive a minimum initial dilution of 10:1, (b) discharges into dead-end sloughs or confined waters, and (c) discharges of raw sewage to any waters of the Basin (see Chapter 4 of Basin Plan). In Order No. 87-19, the Board gave the discharger an exception to the 10:1 initial dilution prohibition for the proposed discharge of treated waste from four wet-weather facilities.
6. The discharger proposes improvements to reduce and treat wet-weather overflows from the interceptor system. The proposed project would increase the interceptor's hydraulic capacity, eliminate the existing overflows, and construct new wet-weather treatment units at four locations: Point Isabel, Oakland Inner Harbor (San Antonio Creek and Coast Guard Island), and San Leandro Bay (Oakport). These facilities would remove floatable material and disinfect waste prior to discharge.
7. The discharger, by increasing peak flow capacity of its interceptor system, will help the seven communities served by the interceptor to eliminate wet-weather overflows from their respective sanitary sewers. Currently, some sanitary sewers are surcharged during peak flow events, due to capacity limitations in the interceptor. Without additional interceptor capacity, some community sewer overflows would continue, even after completion of the communities' 20-year sewer rehabilitation program. Such overflows pose significant threats to public health and water quality, and are the subject of a Board enforcement order (Cease and Desist Order No. 86-17).
8. The discharger intends to construct proposed improvements in phases. The discharger favors phasing because of sequential construction requirements and the significant cost of improvements.

9. The discharger hopes to obtain Clean Water Grant funding to help defray the estimated \$145 million cost of the proposed project. However, the discharger, as a special district created pursuant to California's Municipal Utility District Act, has the authority to set user rates to cover its costs, including capital improvements. The discharger has financing alternatives, including revenue bonds, that would allow it to complete proposed improvements in a timely fashion. Grant funding (or lack thereof) should not delay its schedule for completing the proposed project and complying with the NPDES permit requirements.
10. The Clean Water Act sets deadlines for dischargers to comply with effluent limitations derived from Best Conventional Pollution Control Technology (BCT), Best Available Technology Economically Achievable (BAT), and water quality standards. All these deadlines have passed. Therefore, NPDES permits cannot contain compliance schedules; they must require immediate compliance. The only mechanisms available to the Board for setting a compliance schedule in this case are: (a) a Cease and Desist Order or (b) a time schedule established by a court (consent decree). This order represents the Board's decision to select the first option, while leaving open the future option of a consent decree.
11. The California Water Code (Section 13301) authorizes the Regional Board to issue a Cease and Desist Order when it finds that a waste discharge is taking place or threatening to take place in violation of the Board's prescribed requirements.
12. This action is an order to enforce waste discharge requirements and Basin Plan prohibitions previously adopted by the Board. It is therefore categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 of the Resources Agency Guidelines.
13. The discharger prepared a Draft Environmental Impact Report (July 28, 1986) and certified a Final Environmental Impact Report (September 23, 1986) for its proposed wet-weather facilities. Public hearings on the Draft EIR were held prior to the certification action. The Final EIR proposes various mitigation measures to address the project's impacts, most of which are short-term and related to project construction.
14. On March 18, 1987, at a meeting starting at 9:30 am in the Assembly Room at the State Building, 1111 Jackson Street, Oakland, California, after due notice to the discharger and all other affected persons, the Regional Board conducted a public hearing at which the discharger appeared and evidence was received concerning the discharge.

IT IS HEREBY ORDERED:

- A. East Bay Municipal Utility District, Special District No. 1, cease and desist from discharging waste in a manner that injures or creates a hazard to public health, or that violates waste discharge requirements, in accordance with the following time schedule:

<u>Task</u>	<u>Compliance Date</u>
1. Oakport wet-weather treatment plant:	
a. Submit design (at least as detailed as 10% design submittal for Clean Water Grant Program)	June 1, 1987
b. Start construction	June 1, 1988
c. Finish construction	October 1, 1989
d. Comply with effluent limitations	October 1, 1989
2. Interceptor extensions (East 14th Street and Adeline Street) and main wastewater treatment plant improvements:	
a. Submit design (at least as detailed as 10% design submittal for Clean Water Grant Program)	December 1, 1988
b. Start construction	March 1, 1990
c. Finish construction	October 1, 1991
3. Full compliance with NPDES permit	October 1, 1993
4. Submit annual compliance summary report	November 1 each year until full compliance

I, Roger B. James, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on March 18, 1987.